

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ARTIS CAVER,)	CASE NO. 1:12CV1165
)	
)	
PETITIONER,)	JUDGE SARA LIOI
)	
vs.)	
)	
JASON BUNTING,)	MEMORANDUM OPINION
)	AND ORDER
)	
RESPONDENT.)	
)	

Before the Court is the Report and Recommendation (“R&R”) of the Magistrate Judge in the above-entitled action. Under the relevant statute:

[. . .] Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1)(C). In this case, the fourteen-day period has elapsed and no objections have been filed.¹ The failure to file written objections to a Magistrate Judge’s report and recommendation constitutes a waiver of a de novo determination by the district court of an issue covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff’d*, 474 U.S. 140 (1985); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the Magistrate Judge’s R&R, which recommends that respondent’s motion to dismiss (Doc. No. 5) be granted because the petition is barred by the

¹ The Magistrate Judge’s recommendation addresses a motion to dismiss filed by respondent. (Doc. No. 5.) Petitioner also filed no opposition to the motion to dismiss.

relevant one-year statute of limitations in 28 U.S.C. § 2244(d)(1). The Ohio Supreme Court denied petitioner leave to appeal on August 26, 2009. That ruling rendered his conviction final and triggered the running of the one-year statute of limitations. Petitioner did not file his petition for writ of habeas corpus until May 10, 2012, nearly one year and nine months beyond the deadline. Even if this Court were to determine that his conviction became final on November 4, 2009, when his motion for reconsideration of the August 26th order was denied, this petition would still be time-barred.

Accordingly, the Court adopts the magistrate judge's R&R and this case is **DISMISSED**. Further, the Court certifies that an appeal from this decision could not be taken in good faith and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §§ 1915(a)(3), 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

Dated: November 8, 2012



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE